

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALICE BANKS,

Plaintiff,

vs.

SOUTHERN NEVADA REGIONAL
HOUSING AUTHORITY,
JOHN HILL in his official capacity as
Executive Director, and CARLA LEA
EDWARDS, in her official capacity,

Defendant.

Case No. 2:15-cv-01541-JCM-GWF

ORDER AND REPORT
AND RECOMMENDATION

This matter is before the Court on Defendants' Motion for an Order to Show Cause Why Plaintiff's Complaint Should not be Dismissed (ECF No. 38), filed on September 20, 2016. To date, Plaintiff has not filed an opposition to this motion and the time for opposition has now expired. The Court conducted a hearing in this matter on October 17, 2016.

On December 21, 2015, the Court granted Plaintiff's counsel's Motion to Withdraw as Attorney of Record (ECF No. 16). (*See* ECF No. 17). Since that time, Plaintiff has failed to respond to several filings by Defendant, including a motion for summary judgment, failed to appear at several scheduled hearings, and has failed to appear at the Court ordered settlement conference. In addition, all mailings sent to Plaintiff from the Court have been returned as undeliverable.

Pursuant to Fed. R. Civ. P. 41(b), the Court may dismiss an action with prejudice if the Plaintiff fails to prosecute or to comply with these rules or a court order. It has been almost 10 months since Plaintiff engaged in litigating this matter and has continuously failed to respond to pleadings or appear at scheduled hearings and the settlement conference. In addition, Plaintiff has failed to abide by Local Rule IA 3-1, which provides that "An attorney or pro se party must

1 immediately file with the court written notification of any change of mailing address, email address,
2 telephone number, or facsimile number. The notification must include proof of service on each
3 opposing party or the party's attorney. Failure to comply with this rule may result in the dismissal
4 of the action, entry of default judgment, or other sanctions as deemed appropriate by the court."
5 Since Plaintiff's mail has continuously been returned as undeliverable it is clear that Plaintiff has
6 not apprised the Court of her most recent address. Based on the foregoing,

7 **IT IS HEREBY ORDERED** that Defendants' Motion for an Order to Show Cause Why
8 Plaintiff's Complaint Should not be Dismissed (ECF No. 38) is **granted**.

9 **RECOMMENDATION**

10 **IT IS HEREBY RECOMMENDED** that Plaintiff's Complaint be **dismissed with**
11 **prejudice**.

12 **NOTICE**

13 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
14 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
15 held that the courts of appeal may determine that an appeal has been waived due to the failure to file
16 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has
17 also held that (1) failure to file objections within the specified time and (2) failure to properly
18 address and brief the objectionable issues waives the right to appeal the District Court's order and/or
19 appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157
20 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

21 DATED this 17th day of October, 2016.

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24 GEORGE FOLEY, JR.
25 United States Magistrate Judge
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